

Message Text

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E.O. 11652:N/A

TAGS: CSCE

SUBJECT: CSCE EXPERTS MEETING ON PEACEFUL SETTLEMENT
OF DISPUTES

REF: ROME 17951

"FOLLOWING IS A REPEAT
QUOTE

R 250201Z APR 78
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1. SWISS AMBASSADOR CALLED ON ASSISTANT SECRETARY
VEST APRIL 20 TO LEAVE FOLLOWING NOTE CONCERNING CSCE
EXPERTS MEETING ON PEACEFUL SETTLEMENT OF DISPUTES.

BEGIN TEXT:

THE EMBASSY OF SWITZERLAND PRESENTS ITS COMPLIMENTS
TO THE DEPARTMENT OF STATE AND HAS THE HONOR TO
INFORM IT AS FOLLOWS:

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I. BY SIGNING THE FINAL ACT OF THE CONFERENCE ON
SECURITY AND COOPERATION IN EUROPE (CSCE) IN HELSINKI

ON AUGUST 1, 1975, THE PARTICIPATING STATES DECLARED
THEIR RESOLUTION TO PURSUE THE STUDY AND ELABORATION
OF A GENERALLY ACCEPTABLE METHOD FOR THE PEACEFUL
SETTLEMENT OF DISPUTES AIMED AT COMPLEMENTING EXISTING

METHODS. FOR THIS PURPOSE IT WAS DECIDED TO CONVENE A MEETING OF EXPERTS FROM ALL PARTICIPATING STATES, AT THE INVITATION OF SWITZERLAND.

THIS EMBASSY WISHES TO RECALL THAT ON SEPTEMBER 18, 1973, THE SWISS DELEGATION TO THE CSCE PRESENTED A DRAFT CONVENTION ESTABLISHING A EUROPEAN SYSTEM FOR THE PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES (CSCE II/B/1); THIS DOCUMENT WAS DISCUSSED AT THE CONFERENCE. THE BELGRADE MEETING WHICH WAS HELD AS A CONTINUATION OF THE CSCE RECENTLY CONCLUDED ITS WORK. ACCORDING TO THE TERMS OF ITS CLOSING DOCUMENT, THE REPRESENTATIVES OF THE PARTICIPATING STATES AGREED-- FOLLOWING THE PROPOSAL MADE BY THE SWISS GOVERNMENT TO THAT EFFECT -- TO CONVENE A MEETING OF EXPERTS AT MONTREUX ON OCTOBER 31, 1978 TO PURSUE THE EXAMINATION AND ELABORATION OF A GENERALLY ACCEPTABLE METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES AIMED AT COMPLEMENTING EXISTING METHODS.

II. THIS EMBASSY WOULD APPRECIATE IT IF THE DEPARTMENT OF STATE COULD LET IT KNOW, BY THE END OF MAY, ITS VIEWS, OBSERVATIONS OR PROPOSALS REGARDING THE MEETING OF MONTREUX. FOR THEIR PART, THE SWISS AUTHORITIES CONSIDER THAT THE MEETING COULD PROCEED AS FOLLOWS:
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(A) THE DURATION OF THE MONTREUX MEETING COULD BE THREE TO FOUR WEEKS. THIS PERIOD OF TIME SHOULD ALLOW THE PARTICIPANTS TO ORGANIZE THEIR WORK, TO INITIATE THE STUDY OF A METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES, AND THEN TO DETERMINE THE COURSE TO BE TAKEN.

(B) IN THEIR VIEW, IT APPEARS THAT SEVERAL SESSIONS WILL INDEED BE NECESSARY FOR THE EXPERTS TO COMPLETE THEIR ASSIGNED TASK. THUS, PERIODIC MEETINGS WILL HAVE TO BE ENVISAGED, AT INTERVALS TO BE DETERMINED.

(C) THE SWISS AUTHORITIES ALSO SUGGEST THAT ONE OR SEVERAL RAPORTEURS BE DESIGNATED IN ORDER TO MAINTAIN A CERTAIN CONTINUITY DURING THE INTERVALS BETWEEN THE SESSIONS.

III. THE ELABORATION OF A GENERALLY ACCEPTABLE METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES REPRESENTS A LONG-TERM EFFORT THAT WILL REQUIRE THE

CONTRIBUTION OF ALL GOVERNMENTS CONCERNED. THEREFORE THIS EMBASSY WOULD APPRECIATE RECEIVING, ALSO BY THE END OF MAY, THE VIEWS, OBSERVATIONS OR PROPOSALS OF THE DEPARTMENT OF STATE REGARDING THE MANNER IN WHICH IT CONCEIVES THE WAYS AND MEANS OF SUCH A METHOD, AS WELL AS ITS CONTENT. INDEED, THE FINAL ACT OF HELSINKI STIPULATES THAT NOT ONLY THE DRAFT PRESENTED BY SWITZERLAND, BUT OTHER PROPOSALS RELATED TO IT AND BEARING ON THIS SUBJECT WILL SERVE AS WORKING DOCUMENTS.

THE DEPARTMENT OF STATE WILL FIND IN THE ENCLOSURE A LIST OF SUBJECTS TO BE PONDERED WITH REGARD TO ESTABLISHING A METHOD FOR THE PEACEFUL SETTLEMENT
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OF DISPUTES. IN INITIATING THIS CONSULTATION, THE SWISS FEDERAL POLITICAL DEPARTMENT AIMS AT PREPARING A WORKING DOCUMENT THAT WILL FORM THE BASIS FOR THE DISCUSSIONS DURING THE MONTREUX MEETING IN FALL.

THE EMBASSY OF SWITZERLAND AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE DEPARTMENT OF STATE THE ASSURANCES OF ITS HIGHEST CONSIDERATION.

WASHINGTON, D. C.

APRIL 20, 1978

ENCLOSURE: SUBJECTS TO BE PONDERED

1. (A) OBLIGATORY CONCILIATION PROCEDURE FOR NON-JUSTICIABLE DISPUTES.

(B) OBLIGATORY ARBITRAL PROCEDURE FOR JUSTICIABLE DISPUTES.

(C) OBLIGATORY CONCILIATION PROCEDURE FOR ALL TYPES OF DISPUTES.

(D) PROCEED IN STAGES: GIVE PRIORITY TO ONE OF THE ABOVE-MENTIONED PROCEDURES, (A), (B), AND (C), AND LEAVE THE OTHERS FOR SUBSEQUENT NEGOTIATIONS.

2. LIMITATION OF THE OBLIGATORY ARBITRATION SYSTEM TO CERTAIN IMPORTANT MATTERS COVERING A RATHER WIDE FIELD.

CHOICE BETWEEN TWO VARIABLES:

(A) METHOD APPLICABLE TO ALL DISPUTES, BUT WITH THE

RIGHT TO MAKE CERTAIN RESERVATIONS AS DETERMINED IN ADVANCE; FOR EXAMPLE, THE EXCLUSION OF QUESTIONS BEARING ON NATIONAL DEFENSE.

(B) ENUMERATION OF MATTERS FALLING UNDER OBLIGATORY ARBITRATION; FOR EXAMPLE:

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- INTERNATIONAL RESPONSIBILITY.
- BORDER PROBLEMS (BORDER INCIDENTS, INTERNATIONAL EASEMENTS, DELIMITATION OF BORDERS, IMMISSIONS, REGIME FOR INTERNATIONAL WATERWAYS).
- TRANSPORTATION RIGHTS (RAILWAYS, ROADS, AIRPLANES).
- ENVIRONMENTAL PROBLEMS.
- DIPLOMATIC AND CONSULAR LAW.
- TREATMENT OF FOREIGNERS.
- TREATMENT OF MINORITIES.
- INTERPRETATION AND APPLICATION OF INTERNATIONAL TREATIES (POSSIBLY WITH THE EXCLUSION OF ALLIANCE TREATIES).
- VALIDITY, ENTRY INTO FORCE AND TERMINATION OF TREATIES.

THIS LIST WOULD BE PERIODICALLY SUPPLEMENTED BY SUBSEQUENT MEETINGS.

3. CONCILIATION PROCEDURE FOR DISPUTES CONCERNING THE INTERPRETATION AND APPLICATION OF THE FINAL ACT OF HELSINKI.

4. ELABORATION OF RULES FOR THE NEGOTIATION PROCEDURE WHICH CONSTITUTES THE FIRST STAGE IN THE SETTLEMENT OF DISPUTES.

5. RULING FOR THE TRANSITION FROM ONE STAGE TO ANOTHER (FOR INSTANCE, FROM NEGOTIATION TO CONCILIATION).

6. ELABORATION OF A MODEL CLAUSE OF SETTLEMENT OF DISPUTES, TO BE INCLUDED IN FUTURE TREATIES, BASED ON THE IDEAS CONTAINED IN THE DRAFT PRESENTED BY SWITZERLAND IN GENEVA.

7. PERIODIC REVIEW CONFERENCES IN ORDER TO COMPLETE UNCLASSIFIED

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AND EXTEND THE ALREADY ACCEPTED METHODS.

REMARKS:

A NEW METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES WILL ONLY REPRESENT PROGRESS IF IT IS, AT LEAST

PARTIALLY, OBLIGATORY.

THE SWISS DRAFT IS OF A SUBSIDIARY CHARACTER IN THE
SENSE THAT THE PARTIES TO A DISPUTE WILL ALWAYS
REMAIN FREE TO AGREE ON ANOTHER METHOD OF SETTLEMENT.

THE DEFINITION OF TECHNICAL TERMS CAN BE FOUND IN
THE SWISS DRAFT AND ITS COMMENTARY (DOCUMENT CSCE
II/B/1, SEPTEMBER 18, 1973). END TEXT.

2. MR VEST PROMISED THAT DEPARTMENT WOULD CAREFULLY
CONSIDER NOTE AND RESPOND IN DUE COURSE.

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